

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7509

Petition of A.Z. Craig Water Company)
requesting revocation of its Certificate of Public)
Good for its water system located in West)
Burke, Vermont)

Order entered: 8/3/2010

I. INTRODUCTION

The owners of a small water system in West Burke, Vermont (the "Craig Water System"), wish to relinquish the responsibilities of owning and operating this system. The customers served by this water system have collectively agreed to acquire the system and assume responsibility for it.

In this Order, the Public Service Board ("Board") consents to the transfer of the property constituting the Craig Water System from the current owners to a limited liability company organized by the customers. In addition, effective upon the receipt of confirmation of the transfer of the water system to the limited liability company, the Board revokes the Certificate of Public Good ("CPG") of A.Z. Craig Water Company ("Company").

I. BACKGROUND AND PROCEDURAL HISTORY

The Board issued a CPG in the name of the Company in 1978 in connection with its approval of the acquisition of the Company and the Craig Water System by Douglas S. Henderson.¹ The Company then served seven customers on School Street in the Village of West

1. Docket 4275, *Petition of A.Z. Craig Water Company requesting a certificate of public good to operate a water system in the Village of West Burke, Vermont, and for authority to sell the system to Douglas S. Henderson*, Order of 4/30/78 and CPG dated 4/30/78. The Craig Water System was constructed and commenced operations in 1874. Although the Craig family apparently operated the water system as a business for many years prior to its acquisition by Mr. Henderson, the Company had not previously been issued a CPG. Docket 4275, Order of 4/30/78 at 1 and 2.

Burke.² Mr. Henderson, together with his wife, Mary B. Henderson, still own the Craig Water System, and Mr. Henderson apparently has operated the Craig Water System and run the Company as an unincorporated business for many years.

Mary B. Henderson filed a letter with the Board on March 27, 2009, in which she indicated that the Hendersons wanted to give up responsibility for the Craig Water System. In this petition, Ms. Henderson indicated that only a small number of houses were served by the Craig Water System, and that the Company had not charged for service for the last four or five years. Ms. Henderson also reported that her husband, who is identified in the CPG as the operator of the Company, is 76 years old and "not in the best of health."

In order to respond to a request from the Clerk of the Board for a recommendation on the petition, the Department of Public Service ("Department") sent letters, with copies filed with the Board on May 13, 2009, to each of the customers served by the water system asking for comments or objections to the petition.

On July 30, 2009, these customers jointly filed a letter with the Board setting forth their intention to acquire and take over responsibility for the water system from the Company. The letter also stated that Mr. Henderson had verbally agreed to this transfer of the Craig Water System.

On May 11, 2010, a petition was filed with the Board by a representative of the Company's customers requesting the Board to approve the transfer of the Craig Water System to School Street Water System LLC ("School Street Water"), a limited liability company organized by the Company's customers. According to this petition, all the customers on the Craig Water System were ready to acquire this system as joint owners through School Street Water. The petition included copies of a proposed quitclaim deed for the transfer of property rights related to the Craig Water System from the Hendersons to School Street Water ("Proposed Deed") as well the Articles of Organization of School Street Water and the Certificate of Organization of School Street Water.

The Department filed a letter with the Board on May 21, 2010, in which it supported the transfer of the Craig Water System from the Hendersons to School Street Water and, effective on

2. Docket 4275, Order of 4/30/78 at 2.

the transfer, the revocation of the Company's CPG. The Department also requested that the order specifically state that, upon the effectiveness of the transfer, the Craig Water System will no longer be subject to the jurisdiction of the Board.

II. FINDINGS

1. The Board issued a CPG to the Company on April 30, 1978, in Docket No. 4275 to provide water service in a portion of the School Street area of the Village of West Burke, after finding that the operation of the Company by Douglas S. Henderson would promote the general good of the state. CPG at 1; Order of 4/30/78 in Docket 4275 at 5.

2. The Company currently provides water service from the Craig Water System to the owners of five homes on School Street in West Burke (the "Customers"). Customers' letter filed on 7/30/09; Department's letters to customers filed on 5/13/09.

3. The Craig Water System consists of "an exclusive springs right," water lines, rights of way for the construction and maintenance of water lines, easements and rights of use for the water lines. Proposed Deed at 1; Order of 4/30/78 in Docket 4275 at 2.

4. The Craig Water System is owned by Douglas S. Henderson and his wife, Mary B. Henderson. Henderson letter filed on 3/27/09; Proposed Deed at 1.

5. The Hendersons no longer wish to bear the burden of conducting the Company's public service business and owning and operating the Craig Water System. Henderson letter filed on 3/27/09.

6. All the customers are prepared to jointly acquire the Craig Water System from the Hendersons and have formed School Street Water for such purpose. Customer's letter filed on 7/30/09; School Street Water petition filed on 5/11/10.

7. School Street Water was granted a Certificate of Organization by the Vermont Secretary of State, effective May 4, 2010. Certificate of Organization for School Street Water filed on 5/11/10.

8. Under the Proposed Deed, the Hendersons will quitclaim property related to the Craig Water System to School Street Water for nominal consideration. Proposed Deed.

9. Upon the transfer of the Craig Water System to School Street Water, School Street Water will assume responsibility for operating the system and furnishing water to the customers. Customers' letter filed on 7/30/09; School Street Water petition filed on 5/11/10.

III. DISCUSSION AND CONCLUSIONS

The Board regards the filings by the customers and Ms. Henderson as petitions on behalf of School Street Water and the Company (i) for the consent of the Board to the sale of the property constituting the Craig Water System under 30 V.S.A. § 232(a), and (ii) to revoke the CPG of the Company under 30 V.S.A. § 231(a).

Both of the applicable statutory provisions provide for the opportunity of hearing. The Board notes that none of the parties has requested a hearing and that it has not received such a request, nor any objection to the petitions, from any interested person. The Board concludes that the filings submitted by the parties provide an adequate basis for the requested relief and that a hearing is not necessary under the circumstances.

The Hendersons no longer wish to bear the burden of conducting the Company's public service business and of owning and operating the Craig Water System. The customers are jointly willing, through School Street Water, to acquire the Craig Water System and assume the responsibility of owning and operating the system. As both the users and owners of the Craig Water System, the customers will have a strong incentive to maintain the system and operate it efficiently.³ Therefore, based on the foregoing, the Board finds that the sale of property constituting the Craig Water System by the Hendersons to School Street Water will promote the general good of the state

Upon the transfer of the Craig Water System to School Street Water, School Street Water will assume responsibility for operating the system and furnishing water to the customers. The Company will no longer have any customers and will not be engaged in a public service business

3. In addition, the Board notes that the Company apparently has not charged for water service for several years. *See* Henderson letter filed on 3/27/09. The ability of the Hendersons to maintain the water system without revenue from the business is uncertain.

over which the Board has jurisdiction. Accordingly, there is good cause to grant the Company's request to revoke its CPG upon the effectiveness of the transfer.

This proceeding involves a somewhat familiar problem in Vermont as long-time owners and operators of small water companies become less able or willing, often as a result of age or illness, to manage the business and the related water system. Unfortunately, reasonable solutions to this problem are not always found or acted upon. In this case, the Board commends the customers, the Hendersons and the Department for their efforts in reaching what appears to be an appropriate and effective resolution to this proceeding.

School Street Water has not requested a CPG from the Board to own and operate the Craig Water System. Under Vermont law, School Street Water is not required to obtain a CPG if it limits its service to its owner-members and does not offer its service to the general public.⁴

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. The transfer of property, constituting the water system used in the public service business of A.Z. Craig Water Company, by Douglas S. Henderson and Mary B. Henderson to School Street Water System LLC will promote the general good of Vermont, and consent to this transfer is granted.
3. A.Z. Craig Water Company shall ensure that a filing is made with the Board, within ten days after the effectiveness of the property transfer and recording of the deed, notifying the Board as to the completion of such transfer.
2. The Certificate of Public Good of A.Z. Craig Water Company shall be revoked upon receipt by the Board of confirmation of the transfer of the property constituting the water system.

4. Docket 6883, *Joint Petition of Sunshine Water Company, Inc. to sell its two water systems to Indian Point Water System Association, Inc. and Indian Bay Water System Association Inc.*, Order of 9/30/03 at 3. See, also, 1966-68 Op. Attorney Gen. 153; *In re Pfennig*, 136 Vt. 92 (1978); and, *Kelly v. Alpstetten Association, Inc.*, 131 Vt. 165, 167-68 (1973). The basis for the Board's jurisdiction over water service businesses is 30 V.S.A. § 203(3) which provides in applicable part that the Board has jurisdiction over a company "engaged in the collecting, sale and distribution of water" for domestic purposes.

Dated at Montpelier, Vermont, this 3rd day of August, 2010.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: August 3, 2010

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.